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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,773	06/15/2001	Hamid Najafi	38988.00013	9293
30256	7590	05/19/2005	EXAMINER	
SQUIRE, SANDERS & DEMPSEY L.L.P			PATEL, HARESH N	
600 HANSEN WAY			ART UNIT	
PALO ALTO, CA 94304-1043			PAPER NUMBER	

2154

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/882,773

Applicant(s)

NAJAFI, HAMID

Examiner

Haresh Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. Claims 1-24 are presented for examination.

Response to Arguments

2. Applicant's arguments filed 11/22/2004 have been fully considered but they are not persuasive. Therefore, rejection of claims 1-24 is maintained.

Applicant argues, (1) “the combined teachings of references, Guilford et al. US 2002/0087674 A1, Jul 4, 2002 (Guilford) and Jensen et. al. 6,185,612 (Hereafter Jensen) do not disclose, teach, or suggest the applicant’s claimed invention, i.e., “the claimed invention enables the determination of a network based on a plurality factors based on which factors are most important. The claimed invention enables a tradeoff between factors. Even if one factor is not ideal for a network, that network may still be selected if other factors are acceptable based on their importance. If a plurality of factors for a network are acceptable but the most important factor is not, that network will not be selected. When reporting a theft of a monitored asset, cost is not an important factor but speed and reliability are. For regular reporting of a monitored asset location, cost would be important but other factors less so”. The examiner respectfully disagrees in response to applicant's arguments. In response to applicant's argument that the references fail to show certain features of applicant’s invention, it is noted that the features upon which applicant relies, “the claimed invention enables the determination of a network based on a plurality factors based on which factors are most important. The claimed invention enables a tradeoff between factors. Even if one factor is not ideal for a network, that network may still be selected if other factors are acceptable based on their importance. If a plurality of factors for a

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network are acceptable but the most important factor is not, that network will not be selected.

When reporting a theft of a monitored asset, cost is not an important factor but speed and reliability are. For regular reporting of a monitored asset location, cost would be important but other factors less so", are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). What is claimed is "determining availability of wireless networks supported by an asset monitoring device, performing a weighted score analysis of the available wireless networks as a function of network attributes and data segment attribute weights; and selecting one of the available wireless networks to transmit a data segment based on the weighted score analysis". Guilford discloses "determining availability (e.g., network selection, paragraph 20, col., 2, paragraph 48, col., 4) of wireless networks (e.g., 2G, 3G etc networks, col., 2, paragraph 20), supported by an asset (e.g., software and/or hardware, paragraph 49, col., 4) monitoring device (e.g., device used for monitoring, col., 8, paragraph 86, col., 14, lines 50 – 57); assign a weight (e.g., assignment of the network 2G, 3G etc, based on speed, cost and efficiency of the transmission, col., 2, paragraph 20, abstract) of the available wireless networks (e.g., assignment of the network 2G, 3G etc, based on speed, cost and efficiency of the transmission, col., 2, paragraph 20, abstract) as a function of network attributes and data segment attribute weights (e.g., assignment of the network 2G, 3G etc, based on speed, cost and efficiency of the transmission, col., 2, paragraph 20, abstract); and selecting one of the available wireless networks (e.g., paragraph 48, col., 4) to transmit a data segment (e.g., paragraph 63, col., 6, abstract)". Jensen discloses concept of performing weight score analysis (e.g., col., 7, lines 7 – 22, col., 2, lines 39 – 63). The well-

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known concept of using weight analysis utilizing weights and attributes information would help select which network to use based on network performance parameters, for example, speed, cost, efficiency of the network. Also, page 14, lines 15 –19 of the specification clearly states, “The embodiments described herein are not intended to be exhaustive or limiting. The present invention is limited only by the following claims”. Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the examiner's interpretation of these actions. Therefore, the rejection is maintained.

Applicant argues, (2) “Guilford does not teach making a weighted analysis of available networks”. The examiner respectfully disagrees in response to applicant's arguments. The limitations, “Guilford does not teach making a weighted analysis of available networks”, are rejected by combined teachings of Guilford and Jensen. In response to applicant's arguments against the references individually, i.e., Guilford, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Therefore, the rejection is maintained.

Applicant argues, (3) “None of the references disclose an asset monitoring device”. The examiner respectfully disagrees in response to applicant's arguments. For example, Guilford discloses an asset (e.g., software and/or hardware, paragraph 49, col., 4) monitoring device (e.g., device used for monitoring, col., 8, paragraph 86, col., 14, lines 50 – 57). The specification, i.e., page 6, line 13 – page 7, line 21, clearly states, asset monitoring device including other assets such as automobiles, computers, etc; page 6, lines 4 – 11, states, “Various modifications to the embodiments will be readily apparent to those skilled in the art, and the generic principles

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defined herein may be applied to other embodiments and applications without departing from the spirit and scope of the invention. Thus, the present invention is not intended to be limited to the embodiments shown, but is to be accorded the widest scope consistent with the principles, features and teachings disclosed herein”, and, page 14, lines 15 –19, also states, “The embodiments described herein are not intended to be exhaustive or limiting. The present invention is limited only by the following claims”. Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the examiner's interpretation of these actions.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 6-11, 14-20, 23, 24, are rejected under 35 U.S.C. 103(a) as being unpatentable over Guilford et al. US 2002/0087674 A1, Jul 4, 2002 (Guilford) in view of Jensen et. al. 6,185,612 (Hereafter Jensen), as per non-final office action dated, 9/28/2004.

5. Claims 4, 12, 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guilford in view of Jensen and in further view of Agee et al. US 2004/0095907A1, May 20, 2004, (as per non-final office action dated, 9/28/2004.

6. Claims 5, 13, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guilford in view of Jensen and in further view of “Official Notice”.

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7. As per claims 5, 13, 22, Guilford and Jensen teach the claimed limitations rejected under claims 1, 9 and 17. However, Guilford and Jensen do not specifically mention about using a non-linear weighted score algorithm.

“Official Notice” is taken that both the concept and advantages of providing a non-linear weighted score algorithm is well known and expected in the art. For example, Kilfoyle, US 2002/0093926 discloses use of non-linear weighted score algorithm (e.g., paragraph 6, col., 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include use of a non-linear weighted score analysis with the teachings of Guilford and Jensen in order to facilitate usage of non-linear weighted score algorithm because the algorithm would help select a wireless network based on non linear parameters. The well-known concept of using non-linear weighted score algorithm, for example, teachings of Kilfoyle, US 2002/0093926, paragraph 6, col., 1, would help determine which network to use for communication.

Conclusion

8. The prior art made of record (forms PTO-892 and applicant provided IDS cited arts) and not relied upon is considered pertinent to applicant’s disclosure.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haresh Patel whose telephone number is (571) 272-3973. The examiner can normally be reached on Monday, Tuesday, Thursday and Friday from 10:00 am to 8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Haresh Patel

May 12, 2005

 JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100